

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #8	CCRB Case #: 202005520	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/15/2019 6:28 PM, Tuesday, 08/20/2019 9:30 AM	Location of Incident: § 87(2)(b) 79th Precinct Stationhouse	Precinct: 79	18 Mo. SOL 2/15/2021	EO SOL 10/2/2021	
Date/Time CV Reported Fri, 08/07/2020 2:12 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 08/07/2020 2:12 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Eric Morales	09457	960967	079 PCT
2. POM Keith Chatterton	07323	925067	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Danny Su	13167	956283	079 PCT
2. POM Philip Tse	11569	957233	079 PCT
3. POM Michael Marrero	24139	964139	079 PCT
4. POM Arnold Chow	27983	921211	079 PCT
5. POM Roberto Stultz	26945	941149	079 PCT
6. SGT Mark Xylas	01685	948160	079 PCT
7. POM Joseph Scaglione	07210	959205	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Eric Morales	Force: On August 15, 2019, at § 87(2)(b) in Brooklyn, Police Officer Eric Morales restricted § 87(2)(b)'s breathing.	§ 87(2)(b)
B.POM Eric Morales	Force: On August 15, 2019, at § 87(2)(b) in Brooklyn, Police Officer Morales used physical force against § 87(2)(b).	§ 87(2)(b)
C.POM Eric Morales	Force: On August 15, 2019, at § 87(2)(b) in Brooklyn, Police Officer Morales used physical force against § 87(2)(b).	§ 87(2)(b)
D.POM Keith Chatterton	Abuse: On August 20, 2019, in front of the 79th Precinct stationhouse, Police Officer Keith Chatterton threatened to issue summons to § 87(2)(b).	§ 87(2)(b)

Case Summary

On August 7, 2020, § 87(2)(b) filed this complaint via the Call Processing System.

On August 15, 2019, at approximately 6:28 p.m., § 87(2)(b) was arrested in front § 87(2)(b) in Brooklyn and transported to the 79th Precinct stationhouse. § 87(2)(b) was charged with § 87(2)(b) (Board Review 02). From the 79th Precinct stationhouse, PO Michael Marrero and PO Eric Morales of the 79th Precinct transported § 87(2)(b) to § 87(2)(b).

Inside § 87(2)(b) § 87(2)(b)'s hands were handcuffed to the hospital bed. § 87(2)(b) screamed that she could not breathe and PO Morales allegedly placed his hand over § 87(2)(b)'s mouth, restricting her breathing (**Allegation A: Force, § 87(2)(g)**). § 87(2)(b) subsequently bit PO Morales' hand and in response, PO Morales allegedly punched her forehead (**Allegation B: Force, § 87(2)(g)**). PO Morales pushed § 87(2)(b)'s head forward into the bed and then pushed her head back (**Allegation C: Force, § 87(2)(g)**). § 87(2)(b) was later brought back to the 79th Precinct stationhouse before being arraigned at central booking.

The investigation is in possession of BWC footage capturing this incident (Board Review 01). PO Marrero's BWC did not capture the incident in the hospital because of a technical malfunction which was documented in his memo book.

On August 20, 2019, at approximately 9:30 a.m., § 87(2)(b) was inside the 79th Precinct stationhouse to retrieve her vehicle and her belongings. In front of the 79th Precinct stationhouse, PO Keith Chatterton of the 79th Precinct, wrote a double-parking ticket for § 87(2)(b)'s vehicle. PO Chatterton then allegedly threatened to write § 87(2)(b) another parking ticket if she did not move her vehicle (**Allegation D: Abuse of Authority, § 87(2)(g)**).

The investigation is in possession of PO Chatterton's BWC, but it did not capture the incident on August 20, 2019.

Findings and Recommendations

Allegation (A) Force: On August 15, 2019, inside of § 87(2)(b) in Brooklyn, Police Officer Eric Morales restricted § 87(2)(b)'s breathing.

Allegation (B) Force: On August 15, 2019, inside of § 87(2)(b) in Brooklyn, Police Officer Eric Morales used force against § 87(2)(b).

Allegation (C) Force: On August 15, 2019, inside of § 87(2)(b) in Brooklyn, Police Officer Eric Morales used force against § 87(2)(b).

In her CCRB statement, § 87(2)(b) stated that she first realized that her mouth was bleeding at the 79th stationhouse and informed the officers that she had been attacked and requested to go to the hospital (Board Review 03). PO Marrero and PO Morales subsequently transported § 87(2)(b) to the hospital. At the hospital, § 87(2)(b) was placed on a bed with both hands handcuffed to opposite sides of the bed and her feet shackled together. § 87(2)(b) repeatedly screamed that she could not breathe. PO Morales told § 87(2)(b) to "Shut up" and placed his hand over her mouth. § 87(2)(b) could not breathe with PO Morales' hand over her mouth and his hand aggravated the wound on her lip causing it to bleed. § 87(2)(b) subsequently bit PO Marrero's hand for approximately a second before letting go. PO Morales then punched § 87(2)(b) on the right side of her forehead once, then used both of his fists to press her head down. PO Morales increased the pressure on § 87(2)(b)'s head by using both of his fists to push her head down harder into the bed.

During their CCRB interview, PO Morales and PO Marrero provided generally consistent accounts of what happened at the scene of § 87(2)(b)'s arrest (Board Review 04 and 05). § 87(2)(b), officers placed § 87(2)(b) under arrest for § 87(2)(b). PO Morales and PO Marrero were present when officers handcuffed § 87(2)(b). At 5:18 of PO Stultz's BWC, § 87(2)(b) refuses to get inside the police van as PO Morales and other officers try to escort her inside (Board Review 04). At 5:56, while the police van's door is closed, § 87(2)(b) jumps out of the van. The officers then escort her into another police vehicle. PO Morales testified that he witnessed § 87(2)(b) opening the van's doors by throwing herself at them.

Officers transported § 87(2)(b) to the stationhouse and then from the stationhouse PO Morales and PO Marrero were assigned to transport § 87(2)(b) to § 87(2)(b) because she had blood in her mouth which PO Morales believed was sustained during the assault with the other civilian on the scene. PO Marrero stated that § 87(2)(b) requested to go to the hospital, but he did not recall why.

PO Marrero's BWC footage captures the entirety of the incident at the hospital. PO Marrero and PO Morales' accounts were largely consistent with PO Marrero's BWC footage. At 15:46 PO Marrero handcuffs § 87(2)(b)'s right wrist to the right side of the bed (Board Review 05). § 87(2)(b) tells the officers that they cannot handcuff both her hands and begins to move her right hand; PO Morales then leans over the hospital bed and holds § 87(2)(b)'s right hand still as PO Marrero handcuffs her right hand to the hospital bed.

Between 16:00 and 16:11, § 87(2)(b) shakes her right hand loose from the handcuff. PO Marrero then grabs § 87(2)(b)'s right hand. PO Morales also reaches in front of § 87(2)(b) with his right hand and grabs § 87(2)(b)'s right hand. At 16:12, it appears that § 87(2)(b) moves her head forward and places her mouth towards the back of PO Marrero's left hand and PO Marrero's right hand. PO Morales immediately says, "Don't bite."

At 16:18, PO Marrero holds § 87(2)(b)'s right wrist and appears to be pulling it towards the empty handcuff. Between 16:20 and 16:45, PO Morales is standing across from PO Marrero and it appears that PO Morales' left elbow is against the right side of § 87(2)(b)'s upper body. However, it is unclear where PO Morales' arm is making physical contact with § 87(2)(b) in the video. During this time, PO Morales is holding § 87(2)(b)'s right arm with both hands while PO Marrero appears to be trying to place a handcuff on § 87(2)(b)'s wrist. During his CCRB interview, PO Morales reviewed PO Marrero's BWC footage and he denied applying any pressure on § 87(2)(b)'s neck and stated his arm was on her shoulder and chest area at 16:24 (Board Review 06). PO Morales stated that his left arm was in front of § 87(2)(b)'s torso between 16:24 and 16:39. PO Morales denied applying pressure on § 87(2)(b)'s neck at any point.

At 16:56, PO Morales extends his arms over § 87(2)(b) from behind, and appears to be holding her right arm. Between 17:11 and 17:12, it appears that PO Morales' left hand is under § 87(2)(b)'s chin, but it is unclear where it is making physical contact with her body. § 87(2)(b) then says, "You're choking me. You choking me." In his CCRB interview, PO Morales stated that his left hand was in motion and denied ever placing his hand on § 87(2)(b)'s neck area. At 17:13, PO Morales places his left hand against § 87(2)(b)'s left side of her face as she is screaming and tells § 87(2)(b) to stop biting. At 17:18, § 87(2)(b) says, "I'mma fucking bite you, bitch." At 17:23, PO Marrero's upper body is bent over between the bed and § 87(2)(b)'s back as PO Marrero's arms are reaching down towards § 87(2)(b)'s right hand. At this point, § 87(2)(b) turns her head towards PO Morales' right bicep and appears to bite it.

In his CCRB statement, PO Morales stated that he reached towards § 87(2)(b) to ensure that the handcuff was secured. PO Morales immediately pulls his left arm away. PO Morales subsequently pushes § 87(2)(b)'s head forward and appears to pull the back of her hair. PO Morales stated that he pushed § 87(2)(b) in response to her biting him and so that she could no longer bite him. PO Morales stated that his hand was on the back of § 87(2)(b)'s head and was not pulling her hair. At 17:37, PO Morales' right hand is against the left side of § 87(2)(b)'s face and holds it down against the bed. PO Morales simultaneously calls over the radio. At 17:46 PO Morales removes his hand from § 87(2)(b) and walks away. At 17:55, § 87(2)(b) screams at the officers and § 87(2)(b) makes a spitting sound directed at PO Marrero. PO Marrero later states that § 87(2)(b) spat blood on him. At no point in PO Marrero's BWC does it capture PO Morales punching § 87(2)(b)'s forehead. PO Morales denied using any additional force against § 87(2)(b).

PO Marrero did not see PO Morales punch § 87(2)(b) or restrict her breathing (Board Review 08). PO Marrero did not see PO Morales contact § 87(2)(b)'s neck area. PO Marrero did not see PO Morales place his hand over § 87(2)(b)'s mouth. PO Marrero did not know why § 87(2)(b) said she was being choked at the hospital.

In her arrest reports, § 87(2)(b) was charged with assaulting a police officer for biting an officer (PO Morales) and for spitting at an officer (PO Marrero) while at the hospital (Board Review 10 and 11).

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or otherwise protect life, or when it is reasonable to place person in custody or prevent escape from custody (Board Review 09).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation (D) Abuse of Authority: On August 20, 2019, in front of the 79th Precinct stationhouse, Police Officer Keith Chatterton threatened to issue summons to § 87(2)(b).

On August 20, 2019, after being released from Riker's Island, § 87(2)(b) went to the 79th Precinct stationhouse with her daughter to retrieve her belongings and her vehicle (Board Review 03). While § 87(2)(b) was inside the stationhouse, an unknown officer drove her vehicle and parked it outside in the driveway. At some point, § 87(2)(b)'s daughter informed her that she was receiving a ticket and § 87(2)(b) immediately exited the stationhouse. § 87(2)(b) asked PO Chatterton why he was giving her a ticket and he said that her car was parked in a no-parking zone. § 87(2)(b) explained to PO Chatterton that an officer had parked her vehicle at the location. PO Chatterton said that it was too late and told § 87(2)(b) to move her vehicle before he gave her another ticket. § 87(2)(b) subsequently drove away.

In his CCRB testimony, PO Chatterton explained that there is one driveway to enter and leave the stationhouse (Board Review 07). PO Chatterton first noticed § 87(2)(b)'s vehicle when he and PO McLeish were leaving the stationhouse in a police vehicle to either respond to a radio run or provide back up. However, they could not leave because § 87(2)(b) was blocking the driveway. PO Chatterton was not aware why § 87(2)(b)'s vehicle was parked in front of their driveway. PO Chatterton then honked the horn at least once or twice to get the vehicle to move, but it did not move. PO Chatterton then verbally told the passenger of that vehicle (identified via the investigation as § 87(2)(b)'s daughter) to move the vehicle, but she did not do so. At some point, another police vehicle tried to enter the stationhouse, but § 87(2)(b)'s vehicle was obstructing them as well. PO Chatterton then wrote a parking ticket for the vehicle blocking the driveway and placed it on the windshield. § 87(2)(b) subsequently exited the stationhouse and explained that it was her vehicle and then blamed the officers because they released the vehicle to her. PO Chatterton told § 87(2)(b) to move the vehicle because it was blocking the driveway more than once and after approximately five minutes, § 87(2)(b) moved her vehicle. At some point, PO Chatterton told § 87(2)(b) to move the vehicle before he gave her another ticket. At this point, PO Chatterton did not have any conversation with the other officers about § 87(2)(b)'s purpose at the stationhouse. PO Chatterton did not recall the exact conversation with § 87(2)(b) but he was going to issue her a ticket for disorderly conduct or obstructing governmental administration if she did not move the vehicle. PO Chatterton explained that the back entrance was for police purposes and there could be someone bringing in an arrest and there was no reason for her obstruction. In his memo book, PO Chatterton noted that § 87(2)(b) left her vehicle there for over twenty minutes (Board Review 15). PO Chatterton stated that this was his estimate and he was not informed by any officers of how long § 87(2)(b)'s vehicle was in front of the driveway. PO Chatterton stated that according to the property voucher, the vehicle was released to § 87(2)(b) at 8:52 and he wrote the ticket at 9:07.

PO Chatterton's BWC did not capture this incident (Board Review 10 and 11).

NY Penal Law §195.05 states that an individual is guilty of governmental administration if the individual intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function by means of intimidation, physical force or interference, or by means of any

independently unlawful act (Board Review 12).

NY Penal Law §240.20 states that a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof (Board Review 17).

§ 87(2)
(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Morales has been a member of service for five years and this is the first CCRB complaint to which he has been a subject.
- PO Chatterton has been a member of service for 21 years and has been a subject in 16 CCRB complaints and 35 allegations, of which five were substantiated:
 - Case number 200508075 involved a substantiated allegation of a retaliatory arrest. The NYPD imposed instructions. Board Discipline Recommendations were not issued for complaints closed prior to the CCRB's adoption of the NYPD's Disciplinary Matrix on 03/15/2021.
 - Case number 201106011 involved a substantiated allegation of discourtesy. The NYPD imposed Command Discipline B. Board Discipline Recommendations were not issued for complaints closed prior to the CCRB's adoption of the NYPD's Disciplinary Matrix on 03/15/2021.
 - Case number 201410995 involved a substantiated allegation of refusal to provide name/shield number. The NYPD imposed Command Discipline A. Board Discipline Recommendations were not issued for complaints closed prior to the CCRB's adoption of the NYPD's Disciplinary Matrix on 03/15/2021.
 - 201507225 involved allegations of refusal to provide name/shield number and discourtesy. The NYPD imposed Command Discipline A. Board Discipline Recommendations were not issued for complaints closed prior to the CCRB's adoption of the NYPD's Disciplinary Matrix on 03/15/2021.
 - PO Chatterton has been a subject to seven allegations of threats of arrests; two of the allegations were exonerated and none have been substantiated.

- In case number 200207571, a civilian alleged that PO Chatterton told her not to call the 79th Precinct again and that if she did then he would summons and arrest her. § 87(2)(g) the allegation was unsubstantiated.
- In case number 200402165, a civilian alleged that PO Chatterton told told him to get back in the vehicle and that if he “kept it up” then he was going to arrest the civilian. § 87(2)(g) the allegation was unsubstantiated.
- In case number 201011712, PO Chatterton allegedly issued three summons to the civilian and told the civilian that he did not want to see him again in the street, and that if he did he would arrest them. The complaint was closed as complainant uncooperative.
- § 87(2)(b)

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- § 87(2)(b) did not file a Notice of Claim for either incidents (Board Review 16).
- § 87(2)(b)

Squad No.: 8

Investigator: <u>Patrick Yu</u>	<u>SI Patrick Yu</u>	<u>07/14/2021</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Ethan De Angelo</u>	<u>IM Ethan De Angelo</u>	<u>7/14/2021</u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date